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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 26

Application Number: 09/043,574
Filing Date: 03/26/1998
Appellant(s): Stefan J. HALBLANDER

Scott T. Wakeman
 For Appellant

EXAMINER'S ANSWER

This is in response to Appellant's brief on appeal filed 10/29/2001.

Real Party in Interest

The Appellants' statement identifying the real party in interest contained in the brief is

correct.

Related Appeals and Interferences

The Appellants' statement of the related appeals and interferences contained in the brief

is correct.

Status of Claims

The statement of the status of the claims contained in the brief is correct.

Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in the brief is correct.

Summary of Invention

The summary of invention contained in the brief is correct.

Issues

The Appellant's statement of the issues in the brief is correct.

Grouping of Claims

The Appellants' statement of the grouping of the claims in the brief is correct.

Claims Appealed

The copy of the appealed claims contained in the Appendix (pages 8-11) to the brief is

correct.

Prior Art of Record

U.S. Patent to Parad No. 5,369,570, filed on November 14, 1991, and issued on

November 29, 1994.

NEW PRIOR ART

No new prior art has been applied in this examiner's answer.

Grounds of Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or
on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, and 32-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Parad

U.S. Pat. No. 5,369,570.

Claims 21, 32, and 33 Parad teaches a method and system for situation-related deployment

or activation of resources (abstract) comprising the steps of:

providing a database of resources, resource properties, and resource statuses (col. 4, lines

18-66, and col. 9, line 34 thru col. 10, line 32);

providing an electronic description of jobs to be performed including a priority for each

job and at least one criterion for executing each job (col. 4, lines 18-66, col. 5, lines 40-58, and

col. 9, line 34 thru col. 10, line 32);

conducting an ongoing optimization simulation (col. 5, lines 5-39, and col. 9, line 34 thru

col. 10, line 32) comprising the steps of:

at the occurrence of an event, determining a subset of resources relevant to said event and

determining the status of each of the resources in said subset (col. 4, lines 18-66, and col. 9, line

34 thru col. 10, line 32);

on an ongoing basis, taking into account all pending jobs and job priorities and job criteria

and resources (col. 5, lines 5-39, and col. 9, line 34 thru col. 10, line 32);

determining the optimal job sequence at each point in time for each resource (col. 5, lines

5-39, and col. 9, line 34 thru col. 10, line 32); and

deploying and activating an available resource for the optimal use of the available resource

(col. 5, lines 5-39, and col. 9, line 34 thru col. 10, line 32).

Claim 34, Parad teaches that after the occurrence of an event, a master data record is

checked to determine the relevance to said event of each of said set of resources (col. 5, lines 5-

39, and col. 9, line 34 thru col. 10, line 32).

Claim 35, Parad teaches that each of said resources generates a status message when

queried by a central controller (col. 8, lines 27-53).

Claims 36, and 37, Parad teaches that each of said resources sends a status message to a

central controller when the status of said resource changes, and continuously monitoring the

priority of each of said plurality of jobs and the status of each of the resources in said set of

resources (col. 4, lines 18-66, col. 5, lines 5-58, and col. 9, line 34 thru col. 10, line 32).

Claim 38, Parad teaches that conditional data is supplied to a given one of said plurality

resources to activate said given one of said resources and wherein said given one of said resources

can be deactivated by withdrawing said conditional data (col. 9, line 34 thru col. 10, line 32).

Claim 39, Parad teaches that jobs being performed by a given resource can be canceled

(col. 9, line 34 thru col. 10, line 32).

Claims 40, and 41, Parad teaches that the plurality of resources are grouped according to job-related properties, and each of said resources may be included in both a primary and secondary group (col. 5, lines 5-39, col. 9, line 34 thru col. 10, line 32, and col. 16, line 32 thru col. 17, line 64).

Claim 42, Parad teaches that the criterion is selected from the group consisting of cost, speed and quality (col. 5, lines 5-39).

Response to Argument

The Appellant raises various points in the argument's section of the appeal brief.

In the arguments, the Appellant argues in substance that:

"Parad reference does not recalculate an optimized schedule in response to error conditions. This would require nearly an hour of processing time. Parad instead responds to changing conditions as best it can, but can not do so in an optimized way." Parad' system "cannot perform optimizing calculations fast enough to function in real-time." Parad does not show or suggest a system that performs an ongoing optimization simulation.

In response to the above arguments;

Appellant admits on page 4 of the appeal brief in the arguments section filed on October 29, 2001 that "Both Parad and the claimed invention are directed to systems that deploy resources

on an ongoing basis. When an error occurs or a situation changes, both systems take the change

into account and continue carrying out jobs".

In response to Appellant's argument that Parad does respond to changing conditions in an

optimized way. The Examiner respectfully directs the Appellant's and the Board's attention to

Parad reference (column 5, lines 56-58), " ... Heuristic methods preferably identify problems,

establish priorities, identify all the alternatives and best solutions, and implement actions with

minimal data entry.". Parad performs a selection of the best alternative action (col. 30, lines 1-4).

In addition, in discussing prior art in the background of Parad reference, Parad indicates that prior

art systems have not provided an integrated solution for different levels of resource management

(col. 2, lines 45-47), and he states that " ... This makes it difficult to determine future or global

impacts of short term random events, such as equipment failure, and to respond quickly and

optimally".

In response to Appellant's argument that recalculating an optimized schedule in response

to error conditions requires nearly an hour of processing time. Parad's system was invented and

filed in 1991, computers speed and processing time is far more fast and efficient than the initial

processing time in 1991. It is clear from reviewing Parad's reference that the process and method

steps for recalculating the entire day's schedule is no different than Appellant's claimed invention

for activating resources and in carrying out an ongoing optimization simulation process.

Therefore, it is clear from the cited sections of Parad's reference above that both systems

(Appellant's and Parad's) are responding to events in deploying and activating available resources

in a quick and optimal way.

The above responses to arguments applies to the remaining claims since Appellant does

not provide arguments why each of the dependent claims is separately patentable and relies on

the arguments regarding the independent claims.

As per the above arguments, Appellant appears to argue various points in the

argument's section of the appeal brief discussed above, and the examiner has properly

answered all the arguments presented.

For the above reasons, it is respectfully submitted that the rejections should be

sustained.

Respectfully Submitted,

Hani Kazimi

Art Unit 2164

January 10, 2002

Art Unit: 2164

Conferee

Saleh Najjar

Art Unit 2154

January 10, 2002

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